

REMARKS

Claims 1-5, 19-23 and 30-34 of the application stand rejected. Claims 6-18 and 24-29 were previously cancelled without prejudice and Claims 1, 19 and 30 have been amended herein to more clearly define the scope of the presently claimed invention. Applicants respectfully request reconsideration of pending Claims 1-5, 19-23 and 30-34 in light of the amendments and remarks herein.

35 U.S.C. § 103

Claims 1, 19 and 30 stand rejected under 35 U.S.C. § 102(b) as being obvious over Jayduk (U.S. Publication No. 2003/0054833) in view of Aburai et all (U.S. Publication No. 2002/0090953). The Examiner submits that Hayduk discloses substantially all elements of these independent claims, with the exception of one element (sending permission information for the operation of each function of the wireless electronic device within the area of wireless coverage). The Examiner submits, however, that Aburai discloses this element and that it would have been obvious to one of ordinary skill in the art to combine the features of these 2 references. Applicants respectfully traverse the Examiner's rejection.

First and foremost, Applicants respectfully submit that Claims 1, 19 and 30 have been amended herein and that the Examiner's rejections are therefore moot. For example, Claims 1, 19 and 30 include the element of "causing the mobile device to confirm to the preferences and restrictions associated with the local area of coverage." In other words, according to the claimed invention, the supervisory device essentially

imposes the policies on the device based on the area of wireless coverage by causing the device to conform to the preferences and restrictions for that area. Hayduk, on the other hand, describes the opposite scheme, namely one in which the *user* specifies the “policies” to be applied to their phone, thus allowing the user services preferences to act as a “filter” to determine what information the device receives (Hayduk, Paragraphs 12 – 14). Hayduk this does not describe at least this element of the claimed invention.

Similarly, Hayduk also does not describe the element of “the at least one of the one or more supervisory devices sending preference and restriction information associated with the area of wireless coverage to the wireless electronic device”. The Examiner suggests that Aburai teaches a similar element, but close Examination of Aburai shows that Aburai does not teach or suggest that claimed element. In fact, Applicants respectfully Examiner has not established a *prima facie* case of unpatentability. As is well-established, in order to establish a *prima facie* case of unpatentability under 35 U.S.C. § 103, the prior art must disclose or render obvious every limitation of the claims being rejected. Therefore, if even one claim element or limitation is not taught or suggested by reference, a *prima facie* case is not established.

Additionally, as the Federal Circuit has noted,

“As adapted to ex parte procedure, Graham [v. John Deere Co.] is interpreted as continuing to place the 'burden of proof on the Patent Office which requires it to produce the factual basis for its rejection of an application under sections 102 and 103.'”

In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984) (citing *In re Warner*, 379 F.2d 1011, 1016, 154 USPQ 173, 177 (CCPA 1967)). The Examiner thus has the burden of producing a factual basis for his rejection and for establishing

obviousness by identifying how each recited claim element is allegedly taught or discussed by the cited reference(s). Applicants respectfully submit that the Examiner has failed to do so with respect to Aburai. For example, with respect to Claim 1, instead of pointing to specific elements in Aburai that allegedly show the claim element, the Examiner instead refers to almost the entire application (Figures 1-4, 6-8, 10-12 *and associated text* for support of this assertion, i.e. Paragraphs 21 – 46, i.e. substantially the entire application!), without any further explanation. For all intents and purposes, the Examiner made the blanket statement that “Aburai teaches this element” without any further explanation. Applicants respectfully submit.

Applicants therefore submit that the Examiner has failed to establish a *prima facie* case and has merely provided general bare allegations that the references anticipate the claims. Applicants therefore respectfully request the Examiner to provide more detailed information to allow Applicants to more completely respond to the Examiner’s rejection. Barring that, Applicants respectfully submit that the Examiner has failed to meet the requisite burden of proof and as such, Applicants respectfully request the Examiner to withdraw the 35 U.S.C. § 103 rejections to pending Claims -5, 19-23 and 30-34.

In summary, Applicants respectfully submit that Claims 1, 2, 4-12 and 14-30 are not anticipated by either Knowlton and/or Bloomberg. Applicants therefore respectfully request the Examiner to withdraw the 35 U.S.C. § 102(b) rejections to these claims.

CONCLUSION

Based on the foregoing, Applicants respectfully submit that the applicable objections and rejections have been overcome and that pending Claims 1, 2, 4-12 and 14-30 are in condition for allowance. Applicants therefore respectfully request an early issuance of a Notice of Allowance in this case. If the Examiner has any remaining questions, he is encouraged to contact the undersigned at (714) 730-8225.

Respectfully Submitted,

Date: May 18, 2009

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